

September 9, 2002

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*Town Clerk*

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

SEPTEMBER 9, 2002

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN  
MICHAEL KANE  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

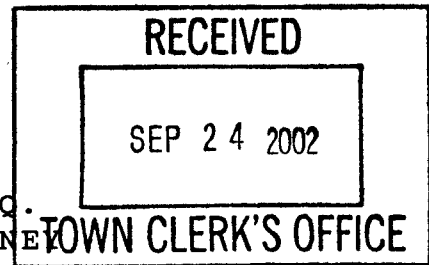
ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

PATRICIA CORSETTI  
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. TORLEY: I'd like the call to order the September 9, 2002 meeting of the New Windsor Zoning board of Appeals.



MR. TORLEY: The house is at the back line basically.

MR. BABCOCK: That's correct.

MR. TORLEY: Deck would be, obviously can't put the deck anyplace else.

MS. GRAHAM: Right, correct.

MR. TORLEY: Among the things, appreciate the photographs, one thing that might be helpful if you get a chance first off we're going to be going off your measurements, so if you say you need a 15.1 foot variance and you put, the deck up turns out you needed 15.6 foot variance sometimes the banks will balk at that, you'll have to start all over again. Please be sure of your measurements. And maybe if you get a chance to have a picture with some stakes in the ground where the deck's going to be.

MS. GRAHAM: No problem.

MR. TORLEY: Also speak to your neighbors because with the couple of exceptions should you proceed with this you'll be sending out letters to a list of your neighbors and the letter can be a little legalese, tell them what you're doing so they don't think you're putting up a T.V. tower or toxic waste dump.

MR. KANE: I have no questions.

MR. RIVERA: No questions.

MR. TORLEY: Entertain a motion.

MR. KANE: I move we set up Mrs. Graham for a public hearing on a requested variance at 106 Shaker Court North.

MR. RIVERA: Second it.

MR. KANE: It says 106 Shaker Court, it's 106 Shaker Court North since there are two different streets.

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ROLL CALL

MR. RIVERA	AYE
MR. KANE	AYE
MR. TORLEY	AYE

DRAVECKY, FRANK

Mr. and Mrs. Frank Dravecky appeared before the board for this proposal.

MR. TORLEY: Request for 5 ft. side yard variance for proposed shed at 289 Quassaick Avenue in an R-4 zone.

MR. DRAVECKY: Actually, I'm, my property line is, I just purchased this house about a month and a half ago and the guy, the person that I had purchased it from--do you have a copy of it?

MR. TORLEY: Yes.

MR. DRAVECKY: The person that I purchased the house from is a lawyer or attorney was killed on 9-11 so I had to pay for the surety. On the one side of the house where I want to put this shed it says my property line is 19'6" and the shed that I want to put the 13 x 20 so it means 6.5 from the property line, I heard that through the town it's 10 feet away from the property line.

MR. KANE: Certain sections of the town, yeah.

MR. DRAVECKY: Basically, the shed has to go on that side of the house because on the left-hand side of the house, there's only 5'5" and I have pictures of the back yard, it has to go there, it's a flat area so I don't have to do too much excavating.

MR. KANE: No cutting down of trees?

MR. DRAVECKY: One tree.

MR. KANE: Would not be creating water hazards, anything along those lines?

MR. DRAVECKY: No, I've done all the renovations to the house myself, I'm a manager for Home Depot so I have been doing all the renovations myself.

MR. TORLEY: I wonder where you've been buying your parts?

MR. DRAVECKY: Home Depot trying to make my stock go up. Certainly not Lowes.

MR. KANE: Shed is similar to other sheds in the neighborhood in size?

MR. DRAVECKY: Yeah, I spoke to all my neighbors, all my neighbors said basically they see all the renovation, I'm beautifying the area, I'm making the house go up.

MR. KANE: Very similar to the questions that we're going to ask you at a public hearing.

MR. DRAVECKY: No problem.

MR. TORLEY: The hill is where it's going to stop?

MR. DRAVECKY: Exactly, so it's basically--

MR. KANE: No easements?

MR. DRAVECKY: No, nothing, basically, the shed is going right there, that side of the fence so the fence is basically--

MR. TORLEY: How big is the tree?

MR. DRAVECKY: It's like that (indicating).

MR. TORLEY: What are the regulations about taking trees bigger than eight inches?

MR. BABCOCK: Not if you're improving, it's not a problem to.

MR. TORLEY: One question, this is not going to hurt you, I'm looking at the tax map lot line dashes and solid lines.

MR. BABCOCK: Yeah, there's, those used to be the lot lines, there's lot 58, 59, 55, his deed was created apparently and took off some of the lots and part of the lots went with the next lot, they were the old deed

to do that to change the law, they would make it so that you would have cars there. That's not what we want. You can't stipulate a law, you guys can stipulate a variance and say I will give you this variance but you can't have this, this, this and this. Town Board can't, you either can do it or you can't do it and they're not going to change the law to have wholesale offices in a residential zone.

MR. TORLEY: Basically, you're up the proverbial creek unless our attorney in his reading of the law can find, be able to ascertain that the law can cover your situation if the permitted uses for home office don't cover you as Mike said you're maybe better off renting office space.

MR. STURTZ: On sales if I was doing wholesale sales of any other item would it be considered?

MR. BABCOCK: Same thing, you know, that's the problem.

MR. TORLEY: In a residential zone, particularly R-1, the idea is that you can have a doctor be there or an accountant where it's people can still live there and it's not going to disturb the neighborhood, accountants aren't usually too raucous, so it doesn't bother anybody but so it's the kind of thing I know your situation it's not--

MR. BABCOCK: Right now a home professional office is a special permit by the planning board now, has been for almost a year now and home professional office you have to have seven full parking spots, full road, full turnaround on your property, you know, I mean, this is not really what it used to be.

MR. TORLEY: Our attorney will look into this, if you wish to continue, you may have a smoother and easier path trying to find some office space to rent.

MR. KANE: I'm going to just table the action, make a movement to table the action until our next meeting and give our attorney a chance to look through, see if there's any alternative solutions.

be very difficult. I'm asking our attorney to look into this, see if there's any way a more detailed reading of what it is permitted as a home office, see if this business activity which has no affect on the outside can be considered as a legitimate home office and this might help Mike as well.

MR. KANE: Do you want to table this for right now or do you want to go ahead and proceed and set him up for a public hearing doesn't mean you have to go through with it.

MR. TORLEY: You have the right to proceed.

MR. KRIEGER: Normally, I would say your thought is well taken, however, because it's a use variance, he has to file an environmental assessment form. Routinely, persons who seek a use variance are advised by this board to get the assistance of an attorney. I hate to see him spend that kind of money, unless he had a good shot at it and I would prefer personally table it, let me look at it before he spends a lot of money.

MR. KANE: We want to table it so we can find an easier path for you to do if possible to do what you want to do. It's almost the easiest path would be to rent an office as an alternative path right because it's going to be almost impossible.

MR. TORLEY: You have another option which is since we're enforcing or granting variances from the zoning code of the Town of New Windsor, go to the Town Board of New Windsor and plead your case and say look, you have to actually change the code and say change the law, you have the right to go and ask them to change the laws, but to just amend what a home office can be.

MR. BABCOCK: The problem with that is that this gentleman is saying that, you know, under in a retail situation, the Motor Vehicle says that they have to have that letter from me and they have to have so many spots, they have to have a sign displayed, so on and a wholesale, it's a little different because wholesaler typically doesn't have the cars there, he's wholesaling them from somewhere wherever they might be and for them

MR. KANE: Yours doesn't fit any of this really but--

MR. TORLEY: But if he has no, agreed in writing no cars there, nothing there, no way anybody would know it's a business except for the sign.

MR. STURTZ: Right, there's another lot on my road couple lots away from me but the gentleman is operating, I don't know what kind of license that is.

MR. TORLEY: That was grandfathered in, that's the one grandfathered in because he's been doing that since '65.

MR. KANE: Schlesinger.

MR. BABCOCK: Yes.

MR. STURTZ: I don't know what kind of license he has.

MR. KANE: He was doing it almost predated zoning so it was grandfathered in to a degree. That's a tough one.

MR. TORLEY: I'd have to ask you--

MR. STURTZ: I have the requirements here from the State.

MR. TORLEY: I have to ask our attorney to examine this matter to see whether--

MR. STURTZ: No space, I don't need any spaces as a wholesaler.

MR. TORLEY: The use variance you have to show that you can't get a reasonable return for your property for doing anything you're allowed to do in the zone, you have to show it's not self-created which gets you in trouble right there because you want to do something not an office, you've got a house and you've already lost, well, it would appear at first blush before the hearing that you'd be in real trouble in self-created hardship, if you fail any of the four tests, you're dead, so I have to do the, to tell you a use variance right now would



that he's an authorized use to obtain a dealer's license and I can't give him that because he has, doesn't have approval to have that type of operation in an R-1 zone and he went to the planning board workshop and the planning board workshop said, you know, instead of going to the planning board and then getting referred here, why don't we have the building department refer him here to cut off that.

MR. KANE: Problem with the use.

MR. TORLEY: There are two kinds of variances that this board can deal with, one is the area variance which is others have been too close to the side line, too close to the back. What you're asking for if we understand this property is what's called a use variance, means you want to do something in a zone that you're not permitted to do at all and the State, by State Law, legislators have made that not impossible but very difficult.

MR. BABCOCK: What makes this very hard to understand he doesn't really want to do it, he just has to have a place to hang his hat so that Motor Vehicle can get a letter from me saying that he has authorization to have this there with no cars.

MR. TORLEY: If he was an accountant, he wouldn't be here.

MR. BABCOCK: That's correct.

MR. KANE: There's no way for us to go around the use, basically, what the use comes down to a certain point is that you have to prove to us or the State of New York that you cannot sell your home for a suggested use in that area for equal return.

MR. STURTZ: To sell the home zoned for this.

MR. KANE: Because yours is very complicated. Zoned for residential, you have to show that you can't sell your house as a residence and get a reasonable return, therefore, you have to be able to have your office there.

STURTZ, ROBERT

Mr. Robert Sturtz appeared before the board for this proposal.

MR. TORLEY: Request for use variance to conduct motor vehicle sales in single-family (R-1) zone at 335 Station Road.

MR. STURTZ: Okay, I'm applying for a variance for wholesale, not a retail, it's really a home office.

MR. TORLEY: Home office but you're not going to have vehicles there.

MR. STURTZ: No, no vehicles on the site. I had went to the preliminary hearing and they asked me to draft a letter saying Dear Sirs: Pursuant to my appearance before the planning board--if you'd like to read it.

MR. TORLEY: You've already been to the planning board and they sent you here?

MR. STURTZ: Yeah, they requested that letter.

MR. TORLEY: I guess I'll read this quickly in for you. This is McGoey, Hauser and Edsall, planning board work session. Dear Sirs: Pursuant to my appearance before the planning board on June 5, 2002, I'm hereby responding to your request of a letter from me regarding details of my planned business. Following terms are agreed upon. There will be no separate entrance. There will be no employees. There will be no vehicles stored on site. There will be no change made to my residence, no machinery or equipment and maximum size sign, requirement is 12" by 18" will be abided by. If you have any further questions or requirements, contact me at the number above. Sincerely, Robert Sturtz. So, basically, it's a home office but it's a business kind of a home office, it's not listed in the home, permitted home office.

MR. BABCOCK: Well, I think what really sparks this up is that the Motor Vehicle needs a letter, he needs a letter from me to the Motor Vehicle Department saying

lines.

MR. DRAVECKY: Basically, this right here where it says 10.3, I thought was mine but it's basically not, it's my neighbor's and I found that out when I went for the permit and I basically said, you know, I mean--

MR. BABCOCK: That 10 foot 3 includes the full lot of 59 which when they did the subdivision put the lot in they give a piece of 59 to your neighbor.

MR. TORLEY: Dashed lines are the old solid is what you've got now?

MR. DRAVECKY: Right and the guy that's to the right of me facing my house has been, has been there since 1952, he has a huge lot and I told him what I was doing, he said he didn't mind.

MR. TORLEY: Gentlemen, any other questions?

MR. KANE: No, Mr. Chairman. Accept a motion?

MR. TORLEY: Yes.

MR. KANE: Move we set up Frank Dravecky at 289 Quassaick Avenue for a public hearing on his requested variances.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. KANE	AYE
MR. TORLEY	AYE

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MR. TORLEY                      AYE

MR. BABCOCK:    Is there a date?

MS. CORSETTI:   23rd of September.

MR. BABCOCK:    9/23/02, okay.

MR. STURTZ:      Thank you.

MR. STURTZ: Do you have any documents that need to be signed as far as--

MR. TORLEY: Not documents, the law says what can and can't be required for a home office.

MR. KANE: His advice is good, your best bet at this point is also to at least maybe confer with an attorney and get his opinion. I don't know, what do you guys get for an hour? We don't want to know.

MR. TORLEY: Whole point is if you have to do this as a use variance you have a very difficult, whether we think it's a good idea, we're bound by State Law and it's a tough one.

MR. STURTZ: What are the requirements?

MR. KRIEGER: I have a sheet here.

MR. TORLEY: You have to meet each and every one of those criteria, you have to show it all in detail. If you don't meet any one of them, the whole issue is dead, the biggest one is self-created hardship, it's something you want to do.

MR. KANE: So if you want with your permission I will table the action or go ahead and set you up for a public hearing and proceed that way.

MR. STURTZ: I would appreciate everybody's help on the matter.

MR. KANE: I move that for the moment we table the action until the next meeting to give Andy a chance to take a closer look at it.

MR. TORLEY: And us to think about it.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. KANE	AYE

PUBLIC HEARING

GMH MILITARY HOUSING, LLC

Bernard Sommers, Esq., Mr. Jim Sperry and Mr. Paul Hannon appeared before the board for this proposal.

MR. TORLEY: Referred by Planning Board for Lot #1 - 2,908 sq. ft./unit (density), 15 ft. street frontage, 7,920 sq. ft. minimum floor area for 1 bedroom unit, 3,960 sq. ft. minimum floor area for 2 bedroom unit; and Lot #2 - 33 ft. rear yard and 15 ft. street frontage for construction of a residential housing project at Stewart Terrace, 1104 Clark Street. Is there anyone in the audience besides the applicant who wishes to speak on the matter?

MS. CORSETTI: For the record, Mr. Loeb's office sent out four, only four notices that were on the list to adjacent property owners and we haven't received anything back.

MR. TORLEY: I think you gentlemen have set a record, that's the smallest number of letters I think has ever gone out.

MR. SOMMERS: Well, we have the airport on one side. I will be guided by your request or recommendation, I assume that all members of the board have a copy of the full application? Attached to the application is a Schedule A, which is really a narrative of this whole proceeding and what's involved with this property and I will read pertinent portions of it into the record, if you so desire. I mean, I would prefer to do that so that the record has it. So may I proceed that way?

MR. TORLEY: Certainly.

MR. SOMMERS: Then if the board has any specific questions, you can address them to either Jim Sperry from the BL Engineers or to Paul Hannon from the developer, GMH. Okay? Well, the applicant is GMH Military Housing, they are located in New Town, Pennsylvania. And GMH is applying for variances in connection with a residential housing project which it

seeks to construct on lands presently owned by the United States of America. The property is located at 1104 Clark Avenue in New Windsor and consists of approximately 70 acres.

MR. TORLEY: 7-0?

MR. SOMMERS: 7-0 acres. The United States of America acquired the 70 acres along with other lands in January of 1957. In 1960, the United States of America constructed military housing on the property. At present, there are 299 existing family housing units of variance types, including detached and attached housing. Those units are presently occupied by Marine Air Group 49 Detachment B and other military units including the Air National Guard. In 1996, the Defense Authorization Act established a program under the terms of which each of our military departments, Department of Army, Department of the Navy, in our case the Department of the Navy was permitted to work with the private sector to replace existing military housing with new quarters. The Act provided the mechanism for a public private venture, the Department of the Navy and GMH. In New Windsor, the Department of the Navy will partner with GMH. The Navy will provide the land and GMH will construct new military housing together with market rate private rental housing. At the end of 50 years, the land, excuse me, the 171 military homes will revert to sole ownership by the United States of America. During the 50 year period, the Department of the Navy will be a partner of GMH and will be directly involved in running the private housing. As originally envisioned, this entire project was proposed to be constructed on the lands to be conveyed and ground leased to GMH by the United States of America consisting of approximately 70 acres. However, as a result of September 11, 2001, and the need for heightened security, the Department of the Navy is now requiring that it have more control over the area designated for military housing and as a result, the property must be subdivided. GMH has made an application to the planning board for subdivision approval. The development of the property as one parcel might have avoided many of the variances sought, and you understand that we are, tonight we are seeking

area variances and I will be specific about those in a moment. There is no use variance being sought, so it might have avoided many of the variances sought, including the density variance because the property must be divided into two lots, and since the preferred subdivision lot line creates a larger parcel for the military housing on lot 2, this is the military housing, and the private housing on lot 1 does not meet the density requirement. In addition, GMH will enter into a 50 year ground lease for the 44 acre parcel, excuse me, I have to go back for a minute. GMH is going to acquire an interest in 25.74 acres of the 70 acre parcel and will own the 25.74 acre parcel jointly with the Department of the Navy. At the end of 50 years, GMH will become the sole owner of that parcel. The property is in the R-5 District which requires 7,000 square feet per living unit. Lot 2 consists of slightly over 44 acres with 171 units producing a density calculation of 11,225 square feet per unit. Lot 1 reduced in size in order to enlarge the military housing lot consists of 25.74 acres with 264 units and a density calculation of 4,247 square feet per unit. A variance of the density requirement is sought for lot 1. The R-5 District requires a minimum of 15 feet of street frontage, neither lot 1 nor lot 2 meets this requirement. The property was developed in 1966 with access over Clark Street, a private road, and there is no street frontage as it is traditionally known. This property has been used for housing since 1960 and is a pre-existing use. The applicant requests that as to both lots 1 and 2 this pre-existing use be recognized and affirmed by this board by granting a variance from the 15 foot requirement for both lots 1 and 2. The R-5 zone requires a minimum living area of 1,000 square feet for each dwelling unit. That will be met in the military housing proposed for lot 2 and 60 percent of the units to be developed on lot 1 will meet that requirement. Thirty-six of the 264 units are one bedroom, one bath units, each containing 780 square feet in size. And as to those units, the applicant requests a variance of 7,920 square feet, that would be the total for all those units. Seventy-two of the units will be two bedroom, one bath units, each 945 square feet in size and as to that unit, as to those units, the applicant requests a variance of 3,960



square feet. Finally, as to lot 1, the military housing, the R-5 District requires a 100 foot minimum rear setback. Not more than 9 of the 170 units proposed for the military use housing will intrude on the minimum setback and the maximum variance sought there is 33 feet. At the greatest area of intrusion there will be a minimum of 67 feet to the rear property line so that is what's being sought. As you know, the Town Law requires that the Zoning Board of Appeals take into consideration the number of factors in making its determination on the variances sought by the applicant. In particular, we must show that the benefit to the applicant if the area variances are granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community will not be, you know, overwhelmingly in favor of the applicant and against the interest of the community. We respectfully submit to the Zoning Board that the granting of these variances will not be detrimental at all to the health, safety and welfare of the neighborhood or community, as a matter of fact, will further enhance what's already there. The property has been used for multiple residence housing by members of the United States Armed Forces since 1960. The project proposed by the applicant permits the replacement of the existing units which are sadly in need of upgrading together with the development of market rate rental housing, which is also needed in the community. This type of public private venture is on the cutting edge of how government and the private economy can and should cooperate to provide needed services and here new military housing at no cost to the taxpayers. In fact, in this instance, the taxpayers will acquire ownership of the military housing for no additional cost at the end of the 50 year period. The first determination that the board must make is whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties created by the granting of the variance. Clearly here what the applicant seeks to do here is to continue the pattern of use which has existed on this property for more than 40 years. Rather than creating a detriment or undesirable change, the applicant will be upgrading the improvements on the property. The second consideration for the board is whether the benefits sought can be

achieved by some method feasible for the applicant to pursue other than the area variance. The principal variance sought relates to the density calculation on lot 1. That has been brought about by the requirement by the Department of the Navy that the property be subdivided. Although the density variance sought could be reduced if a less rational property line between lots 1 and 2 were drawn, the New Windsor Planning Board directed that the applicant present both the proposed subdivision lines to the zoning board. The zoning board selected the more rational line between the military and non-military housing.

MR. TORLEY: When did we do that?

MR. SOMMERS: I think that's the planning board, it was discussed, we showed--

MR. TORLEY: Do you have S1?

MR. KANE: 1A.

MR. SOMMERS: It was discussed in August, we had both plans here.

MR. TORLEY: The zoning board takes no action without a public hearing.

MR. SOMMERS: I stand corrected, the planning board selected the more rational between the military and non-military housing which has necessitated a greater density variance for the private housing.

MR. TORLEY: Takes out the jog.

MR. SOMMERS: Yes. Again, the overall density if the property were developed as one 70 acre parcel would be ten square feet per dwelling unit shy. The remaining variances are more run of the mill, such as the 100 foot setback for rear yard where the nearest improvement is 67 feet from the rear yard. The applicant submits there is no other way feasible for this project to be developed and to achieve the development necessary to result in the new housing both military and public. The third area of inquiry for the

board is whether the requested area variance is substantial. Again, the only substantial area variance we requested is the variance for lot 2, which exceeds the 7,000 square foot per unit requirement, but that figure comes about for two reasons. The first being the requirement that the property be divided into two lots and a minimal variance of 4,243 square feet would be necessary and the second being the selection of the subdivision line creating a much larger lot for the military housing. The fourth area of inquiry for the board is whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions of the neighborhood. Instead of an adverse affect, we submit the granting of the variance will permit the construction of new housing, both military and private and will result in the removal of existing outmoded an obsolete housing presently available for the members of the armed forces. Finally, the last issue is whether this difficulty was self-created. Property exists and has been developed by the United States of America, which is exempt from the Town of New Windsor Zoning Regulations. It is in addition a pre-existing use to the effect that it's been used as housing prior to the adoption of zoning by the Town of New Windsor. While sole ownership of a portion of the property will devolve for a number of years from the United States of America, the United States of America will retain ownership of the portion of the property and will be the sole owner of 44 acres of the property unencumbered by the ground lease. For all of those foregoing reasons, we respectfully request the board to grant all of the variances requested. This is a unique opportunity for public private partnership to function and to provide needed housing both in the military and private sphere without cost to the taxpayers and in accordance with the provisions of the 1996 Defense Authorization Act. The conditions arising since September 11, 2001, two days from now anniversary have occasioned the request for the principal variances. The applicant and the Department of the Navy ask this board to consider the application in that light and to grant the request for all of the variances sought. Thank you very much. And again, if you have any questions, you can direct them to me, to Jim or to

Paul.

MR. TORLEY: Question, maybe I misheard you, each of the apartments in the rental market exceed 1,000 square feet or did I misread you?

MR. SOMMERS: I think you misread.

MR. BABCOCK: No, they won't, that's the first.

MR. TORLEY: Living area will be 1,000 square feet each in lot 1 and 2?

MR. SOMMERS: No.

MR. TORLEY: That's what sheet S1A says, minimum living area required 1,000 square foot each, lot 1 provided 1,000, lot 2 provided 1,000, no variance requested.

MR. BABCOCK: Mr. Chairman, the referral we did from the planning board doesn't have that information on it either, I was just trying to go through that. Maybe that's something that came up through the--

MR. SPERRY: It is, Jim Sperry with BL Companies, the civil engineers. In fact, that's exactly what happened, the calculation for the floor area which from the civil engineer's standpoint, we haven't been directly involved in but became evident during the process so that prior to actually the application was submitted, the thousand foot came into the picture so our original plan was to have the planning board look at it and does indicate the thousand foot minimum area.

MR. TORLEY: What's wrong with making 1,000 square feet?

MR. SPERRY: Probably ask Paul to jump in, I think it's a matter of the, as the project is going to go, the economics become difficult and I think the way the units have been designed, they're mixed, they feel it's going to be necessary.

MR. HANNON: The reason the one bedroom units, the reason they're under 1,000 square feet is because we

went out and did a very thorough competitive analysis within the marketplace, we went over to the Avalon Project which I think is very upscale kind of, another kind of image that we want to portray. We went over to the JPI Project, which is just across the river as well but they're both upscale communities. And we wanted to design a facility that will be competitive with them and to do a one bedroom unit over 1,000 feet would just, it's just not feasible and quite frankly, would not put us in a very favorable competitive position because everything that we have seen, everything in the market, our entire market analysis have been less than 1,000 square feet, the one bedroom units.

MR. TORLEY: But how big are the one bedroom units then?

MR. KANE: Take a look at page, technically, it says the top of the second page, gives you a breakdown under lot 1 application for the variance.

MR. SOMMERS: Page 3, there will be 36 of the 264 units are one bedroom, one bath units each containing 780 square feet in size and as to those units, the applicant requests a variance of 7,920 square feet, in other words, that's just taking 220 times the 36 units, 72 of the units will be two bedroom one, bath units, each 945 square feet so there you need 55 square feet per unit. And total of 3,960 square feet.

MR. TORLEY: Mike?

MR. BABCOCK: What's the total unit count?

MR. SOMMERS: 264.

MR. BABCOCK: Out of the 264, 72 will be two bedroom, 36 will be one bedroom the remainder will be three bedroom?

MR. SOMMERS: I assume that's correct, yes.

MR. TORLEY: Now, my recollection is that we have not granted many or even very few variances for below minimum living area.

MR. BABCOCK: One.

MR. TORLEY: Others were caretaker's apartment for existing buildings. Speaking personally, I've got no problem with the setback, the project is a good idea, at setbacks are reasonable dense, it's a little high, but I can live with that because of the open space around it. My questions are primarily on the living area and second, I appreciate the services are satisfied with the security arrangements, if they're happy with that that satisfies me. But I am concerned about your cramming in the substandard size apartments.

MR. HANNON: The only reason, the only true reason is because of the, what the competition has out there, not only some of the apartment complexes that are in the Town of New Windsor which we're not going to build a similar facility to some of those that are out there, we really want to be luxury, we're the upper scale but we're trying to develop units that are exactly what our competition has in the luxury marketplace.

MR. TORLEY: Luxury apartments that are 708 square feet?

MR. HANNON: Yes.

MR. TORLEY: In this town? I don't care about other towns.

MR. HANNON: I can show you several for the one, two and three bedroom that are all smaller than what we have right now.

MR. TORLEY: In the Town of New Windsor?

MR. HANNON: That's correct.

MR. TORLEY: That would be interesting because they'd be illegal unless they were built before.

MR. HANNON: They were their C product, they were probably built in the '50's, '60's, they're older apartment complexes.

MR. TORLEY: Again, that may have been and seeing those apartments may have been one of the reasons that our Town Board, remember, we're granting, we're required to grant minimum possible variances and the Town Board has decided that it's in the best interest of the zoning in the town that apartments be 1,000 square feet or larger.

MR. SOMMERS: For any size apartment?

MR. TORLEY: Minimum living area is 1,000 square feet, I don't know of any zone where it's less than 1,000.

MR. HANNON: One of the other reasons as well again we're trying to be, we're trying to promote what the luxury competition has in the area and due to relationship if I can step over here as well, if you look at the relationship that we have between the military portion, which is here and the market rate portion which is here, site 1, we're not just looking at it from the perspective of two different uses here. One of the issues that we have while the Navy will be the owner of this for the 50 year piece and we'll both be owners, the Navy and GMH military housing will own the market rate piece. There also would be significant cash flows going from this piece over to this piece and the reason is because not only are we going to rebuild each and every one of these homes that are over here right now, but we're going to maintain them in a fashion so that 50 years from now, they will not look like they presently do. So there will be some significant cash flow moving from this piece over to this piece. The market rate piece will heavily subsidize the military piece. Presently, the average rate for allowance for housing that the Navy provides the service members here is approximately right around \$900 per month. If you look at a weighted average for the grade and also obviously the size of the family and the, if you look at the \$900, there's really not a lot that \$900 can buy in this marketplace right now. So we're shifting some significant dollars from the market rate piece to the military piece and again, it's just an issue of trying to deal with the economics of the situation.

MR. TORLEY: And the economics of the situation are so balanced that if you made those 100 out of 300 units, well, the one, the two bedrooms that are 945 square feet that's a small variance request, but going from 1,000 to 780 is a big variance request, are you telling me that the economics of this are so finely poised that changing one bedrooms to bring them closer to 1,000 square feet would cabosh the project?

MR. HANNON: It would make it extremely difficult but again, it's just a function of the business as well our function I should say of the residents as well. Again, we're trying to be, we're trying to with the luxury market, we're trying to pick what the competition has and I think to build the additional 780 to 1,000 square feet, the additional 220 square feet I think would put us at a competitive disadvantage.

MR. TORLEY: Do you guys have any questions you want to ask?

MR. KANE: Not at the moment, no.

MR. RIVERA: The one bedroom 380 square foot or 780, is that for a senior citizen type person or--

MR. HANNON: No, no, that's for the general public. I have done quite frankly in a previous life I have actually done a lot of assisted living in retirement communities, the typical one bedroom units in a continuing to care retirement community is closer to 600 square feet, maybe as high as 640 square feet. So again, this is a totally different use. This would be for a single person or a married person but it would be, it is in fact a one bedroom, one bath unit for the general public.

MR. SOMMERS: I can tell from you personal experience that from the past few years my wife and I have been fortunate enough to have been able to spend some time in Florida and what they call a two bedroom two bath unit and it's just over 1,000 square feet they're small but they are units that are smaller and I would envision that as Paul said that a one bedroom unit would perhaps be used by somebody who could afford a



decent market rental who lives alone or a couple starting out who don't spend a lot of time at home, they're working and waiting to buy their first home in a nice area of the Town of New Windsor.

MR. TORLEY: This occurred to me when you mentioned senior citizen, we have no requirements that any of these are set aside for assisted living or senior citizen housing?

MR. BABCOCK: No.

MR. TORLEY: I figure you would have caught that but just doublecheck.

MR. SPERRY: We meet handicapped accessibility requirements. Just wanted to point out one thing that we're talking about just about the units, we need to talk about the community as well, recognizing that yes, these are one bedroom units are a little bit smaller, we have to remember that in the community what we're trying to do here is create open play areas, we're going to have a fairly substantial clubhouse building that is in fact it's centrally located with pool and just a, where we have lots around it so as to the project we're trying to create some of the nice exterior spaces.

MR. HANNON: This is the community center which will be under 3,400 square feet.

MR. SPERRY: Amenities raise it up to a higher level and help create a community that they can live in besides the apartment itself which again is a part of the military site as well doing the same thing so we have space available on that side as well.

MR. TORLEY: There are no plans to convert Clark Street to a public street? If that was done then all your road front goes away.

MR. SPERRY: No.

MR. SOMMERS: No plans.

MR. TORLEY: Remain as a private road?

MR. SOMMERS: Yes.

MR. TORLEY: And at this point, I will open it up to the audience. Anybody in the audience that wishes to say anything? If there are no comments from the audience, I'll close it back up and back to the board.

MR. KANE: I don't think 36 units out of 264 even though the numbers are extreme is a bad proportion under these circumstances and what we're doing with it.

MR. TORLEY: Okay.

MR. KANE: Since we do take each individual thing as its own unique situation, I don't think we set a precedent with it.

MR. SPERRY: One more point so you have a better understanding of the whole project, look at the, some of the site planning issues that we're dealing with, but the cost of the project, the infrastructure throughout a lot of the project is in very poor condition. And in fact, the information wasn't as readily available as we would have liked to have had it, we had to take a hard look and plan to do upgrades and replacements that were not a part of the original program. We have added and in fact even to the extent that to determine what the military housing some of this can happen in phases, won't happen initially because of the costs, sanitary, for example, one that we really have to address and we're working with the town as you may be aware to replace some of these but within the market area, the sanitary and a lot of the water, almost all will have to be taken out and redone, we're hoping to utilize more of the construction but to come up with the community areas that we want and meet some of the criteria, we need for the new building code requirements for as far as safety, we have to do that. So point is that the economics of this thing got a lot more difficult as we got into it and we said how can we keep these to tie in and a good product in line with the competition as Paul said so the cash flow can work to make this side work.

MR. KANE: I heard you say about the infrastructure, you're going to take care of problems that may develop from water runoff?

MR. SPERRY: In fact, what's indicated, if I can, part of the proposal there's no provision for storm water management on the site, everything is collecting, goes into the stream, we have to deal with it and that's going to be at several levels. We're going to have some isolated levels within the military site and the market rate so we'll be doing that.

MR. SOMMERS: All this is being done with private money, no public money.

MR. TORLEY: Couple of minor bookkeeping issues so you don't have to do this again, the requirements for parking spaces for the apartments are all met? I don't see any on your zoning information. I know we have requirements on the parking spaces for apartments.

MR. BABCOCK: They're not asking for a variance for that.

MR. SPERRY: We'll meet the requirements, we're still, just to understand, fine tuning these areas right now. Our parking regulations are expanding and contracting but we will meet requirements.

MR. TORLEY: You're not requesting any variances from parking?

MR. SOMMERS: Correct.

MR. SPERRY: I wanted to clarify one of the other questions just for the record, we will show that the hundred foot setback again is a pre-existing thing we're putting the units up there essentially right where the existing ones are.

MR. TORLEY: Gentlemen, do you have anything or problems you want to catch before you proceed because we don't want to have you guys do this again?

MR. SOMMERS: Thank you.

MR. TORLEY: If not, entertain a motion on this matter.

MR. KANE: I move that we approve the requested variances by GMH Military Housing as written.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA AYE

MR. KANE AYE

MR. TORLEY AYE

MR. SPERRY: Thank you very much.

PRELIMINARY MEETINGS

GRAHAM, AUTAVIS

Mrs. Graham appeared before the board for this proposal.

MR. TORLEY: Request for 15.1 ft. rear yard for proposed deck at 106 Shaker Court in a CL-1 zone.

MS. GRAHAM: I just want to put a deck on to the exterior of the back section of the house.

MR. KANE: They have a very unique lot. The only thing I would say to take a look at Pat, did we do a variance on that house when it was built, just for the steps coming up the back door?

MR. BABCOCK: No, actually, there's a variance for front yard with this lot.

MS. CORSETTI: What is the name on that, Michael?

MR. BABCOCK: Just under Schoonmaker Homes at the time back in 1989, we made them pull that house to the front, it's a weird shaped lot because it's a cul-de-sac which left 40.3 feet to the rear. Back then we didn't worry about a small landing and the set of stairs so you could get out of your house and they received a front yard variance the 37 feet that they're ahead, they didn't, the original builders did so. Right now, the back of the house is just 40 feet from the property line.

MR. KANE: Technically, if they went to refinance with the steps coming off the back of the house, that wouldn't pass muster.

MR. BABCOCK: It would because they already have a C.O. and nobody would question them.

MR. KANE: Very, very small lot, it butts up, it's on my block, I know the lot and it butts up to McQuade on the back and they've only gotten a little bit to put a deck so anything back there they'd need a variance.

-----X  
In the Matter of the Application of  
**HOUSE OF APACHE, LTD. (MONRO MUFFLER)**

**MEMORANDUM OF DECISION  
GRANTING AREA VARIANCE**

#02-32.  
-----X

**WHEREAS, HOUSE OF APACHE, LTD. (Monro Muffler Brake Inc.),** located at 104 South Central Avenue, Valley Stream, N. Y. 11580, has been referred by the Town Planning Board for 13,000 sq. ft. lot area variance for an easement for Martin's Food of South Burlington, Inc. (Hannaford Food & Drug) through the Monro Muffler (Apache) parcel located on Route 94 for purposes of construction of a supermarket on Route 32, Vails Gate, in a C zone; and

**WHEREAS,** a public hearing was held on the 10th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS,** the Applicant appeared by Larry Wolinsky, Esq. of counsel to Jacobowitz and Gubits, LLP; and

**WHEREAS,** there were four spectators appearing at the public hearing; and

**WHEREAS,** one spectator spoke in opposition and the other spectator spoke neither in favor or in opposition to the Application, but expressed some concerns; and

**WHEREAS,** a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS,** the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
  - (a) The property is a commercial property located in a neighborhood of commercial properties on a busy state highway in close proximity to the intersection with two other busy state highways.
  - (b) The lot is currently occupied by an auto repair/muffler business.
  - (c) The lot presently includes an access to the adjacent busy state highway to the business. Development of the parcel immediately behind the Applicant's parcel has been proposed. In order to facilitate this development, the Applicant seeks to extend the present access from its business to the adjacent state highway to create access to the aforementioned adjacent parcel. Such creation would reduce the lot area of the parcel presently occupied by the aforementioned auto repair/muffler business.

- (d) This creation of this commercial driveway is the only feasible means of creating access to the adjacent parcel which is required by it. There is no other feasible way to create this access.
- (e) The variance requested is substantial in quantity, but it is not substantial in its impact. The Applicant's property's lot area will substantially decrease, however, the Applicant's property will not lose any parking spaces and the configuration created by the driveway, if approved, would actually enhance vehicular and emergency access to the building located on the parcel.
- (f) A Full Environmental Impact Statement was prepared for this project and submitted to the New Windsor Planning Board. That EIS extensively analyzed all environmental impacts of the project including those related to all aspects of the project. The effects of this application to the physical and environmental conditions in the neighborhood have been mitigated to the maximum extent practical. That Environmental Impact Statement was reviewed by the Zoning Board of Appeals and the findings of the Planning Board with respect to the environmental impact were adopted by the Zoning Board of Appeals.
- (g) A State Environmental Quality Review Negative Declaration was adopted by the Board and a copy of that Negative Declaration is attached hereto and made a part hereof.
- (h) The access to the adjacent state highway has already been created and approved. No change is proposed in that access. The application seeks to extend that commercial driveway, which driveway already exists.
- (i) The Applicant originally sought an interpretation of the Zoning Code of the Town of New Windsor regarding whether or not this driveway would decrease the lot area, but that Application was withdrawn by the Applicant at the public hearing, leaving only the application for variance.
- (j) There appear to be substantial questions of traffic as well as neighborhood impact regarding the development of the adjacent parcel. The application before the Zoning Board of Appeals, however, concerned only the Applicant's parcel, presently occupied by Monro Muffler Brake.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variance requested is substantial in relation to the Town regulations but nevertheless is warranted for the reasons listed above.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

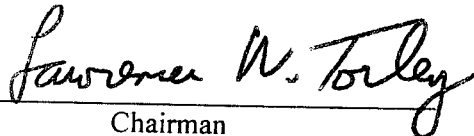
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 13,008 sq. ft. lot area variance as stated in the introductory paragraph, at the above address, in a C zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 9, 2002.

  
Chairman



12-12-79 (3/99)-Sc

SEQR

State Environmental Quality Review  
**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Project Number

Date: June 10, 2002

This notice is issued pursuant to Part 617 of the Implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The T. New Windsor Zoning Board of Appeals, as lead agency, has determined that the proposed action described below will not have a significant environmental impact and a Draft Impact Statement will not be prepared.

**Name of Action:**

Area Variance for Monro Muffler Brake Site  
New York State Route 94, Town of New Windsor, Orange County, New York

SEQR Status:      Type 1      ☐  
                         Unlisted      ☒

Conditioned Negative Declaration:      ☐ Yes  
   ☒ No

**Description of Action:**

A lot area variance to allow proposed parking and site access improvements on a 39,884 sf site now occupied by Monro Muffler Brake, Inc. (Section 48-37 of the Zoning Code requires subtraction of the access easement through Monro Muffler (12,892 sf) from the current permitted lot area (39,884 sf).) A ZBA determination is needed as to whether a variance will be required.

**Location:** (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

New York State Route 94, Town of New Windsor, Orange County, New York

## SEQR Negative Declaration

Page 2 of 2

**Reasons Supporting This Determination:**

(See 617.7(a)-(c) for requirements of this determination ; see 617.7(d) for Conditioned Negative Declaration)

The following information was provided by the Applicant, Martin's Foods of South Burlington, Inc., in relation to this action: an Application for Variance, a Short Environmental Assessment Form dated May 10, 2002, a Supporting Narrative, and accompanying figures showing the existing and proposed conditions relating to this action, and the Findings Statement adopted April 25, 2002, by the Town of New Windsor Planning Board in association with the Applicant's site plan application.

The Zoning Board concurs with the Planning Board's Findings and mitigation described therein. Based on the review of information provided by the Applicant, the Zoning Board has determined that this Unlisted action will have no adverse environmental impacts.

The subject action requires modification of an existing approval by this Board. This area variance will allow modification of an existing site plan, as has been subject of an extensive review by the Town of New Windsor Planning Board. This action will facilitate installation of a secondary access from Route 94 through the Monro Muffler site to service the proposed Hannaford supermarket. The current site plan was previously the subject of a lot area variance on or about September, 1993, to allow the construction of an automobile repair garage in a C Zoning District (requiring a 40,000 square feet minimum lot size) on a 39,884 square foot lot.

Section 48-37 of the Town of New Windsor Zoning Code requires subtraction of the access easement through the subject site (12,892 sf) from the current permitted lot area (39,884 sf). A determination has been made by the Zoning Board that a variance is required to comply with the aforementioned Section.

**If Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

**For Further Information:**

Contact Person: Patricia Corsetti, Zoning Board Secretary

Address: Town Hall, 555 Union Ave., New Windsor, NY 12553

Telephone Number: (845) 563-4630

**For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:**

Chief Executive Officer, Town / City / Village of

Other involved agencies (If any)

Applicant (If any)

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany NY, 12233-1750 (Type One Actions only)

In the Matter of the Application of

**RAYMOND DONOVAN**

#02-26.

MEMORANDUM  
OF DECISION  
GRANTING AREA  
VARIANCES

**WHEREAS, RAYMOND DONOVAN**, 204 Summit Drive, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 9 ft. rear yard variance for an existing deck, and 5 ft. 6 in. side yard and 6 ft. rear yard variance for an existing shed the above residence, in an R-4 zone; and

**WHEREAS**, a public hearing was held on the 10th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke in opposition to the Application, however a letter of support was received and filed from an adjacent neighbor; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
  - (a) The property is a residential property located in a neighborhood of residential properties.
  - (b) The property is irregularly shaped, having a curved front yard.

(c) Since the time the house was purchased, the Zoning Local Law of the Town of New Windsor has been amended. It is not clear whether or not the deck was properly permitted under the Zoning Local Law as it existed when the deck was originally constructed.

(d) The Applicant has replaced the deck that existed at that time, but the new deck does not project any closer to the property line than the deck which it was built to replace.

(e) The deck and shed have been in existence for approximately ten years and there have been no complaints formally or informally.

(f) Neither the deck nor the shed have created any water hazards, or changed the course of drainage from the property.

(g) Neither the deck nor the shed is constructed over any water or sewer easements.

(h) The deck and shed are similar to other decks and sheds in the neighborhood.

(i) No substantial vegetation of any kind has been removed in the construction of the shed or deck.

(j) The deck is necessary for the health, safety and welfare of the occupants of the home located on the property since without the deck, a person exiting the rear of the home would probably sustain serious injury.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

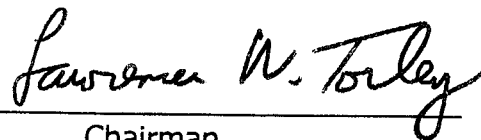
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT the requested area variances as sought in the first paragraph of this decision, at the above address, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 09, 2002.



Chairman

-----X  
In the Matter of the Application of  
**WESTAGE DEVELOPMENT 207, LLC**

**MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCE**

#02-20.  
-----X

**WHEREAS, WESTAGE DEVELOPMENT 207, LLC, 5 Jefferson Plaza, Suite 100, Poughkeepsie, N. Y. 12601, has made application before the Zoning Board of Appeals for a 22 sq. ft. sign area variance for a freestanding sign for an office park located on Route 207 in an NC zone; and**

**WHEREAS, a public hearing was held on the 10th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and**

**WHEREAS, the Applicant appeared by Ed Kellogg for this proposal; and**

**WHEREAS, there were no spectators appearing at the public hearing; and**

**WHEREAS, no one spoke in favor or in opposition to the Application; and**

**WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and**

**WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:**

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
  - (a) The property is a commercial property located in a neighborhood of commercial properties on a busy highway in the Town of New Windsor.
  - (b) The Applicant seeks a variance to add a peak to the existing sign. The purpose of the "peak" is to cause the appearance of the sign to conform to the adjacent building.
  - (c) Neither the freestanding sign nor the peak will impede the vision of motorists in the operation of motor vehicles on the adjacent state highway.

- (d) The sign will be illuminated with exterior illumination only. This illumination will be located in such a manner so that it will not interfere with the operation of motor vehicles over the adjacent highway.
- (e) The proposed sign will be neither flashing nor will it be neon.
- (f) The sign will conform to the requirements of the Zoning Local Law with respect to height and will be no higher than other signs on adjacent properties.
- (g) The variance is sought and granted for the sign as presented to the Zoning Board of Appeals with the dimensions and description thereon.

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.
4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance as previously stated is reasonable in view of the size of the building, its location, and its appearance in relation to other buildings in the neighborhood.
8. The interests of justice will be served by allowing the granting of the requested area variance.

**NOW, THEREFORE, BE IT**

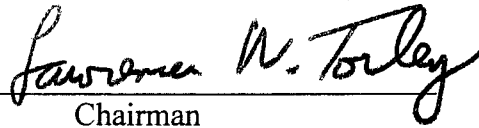
**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 22 sq. ft. sign area variance for a freestanding sign at an office park located on

Route 207 in an NC zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 09, 2002.

  
Chairman



-----X  
In the Matter of the Application of

**ROBERT SMITH**

#02-22.  
-----X

MEMORANDUM  
OF DECISION  
GRANTING AREA  
VARIANCE

**WHEREAS, ROBERT SMITH**, 6 Regimental Drive, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 7.5 ft. side yard variance for an existing shed at the above residence, in an R-4 zone; and

**WHEREAS**, a public hearing was held on the 10th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared with his wife for this Application; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, no one spoke in opposition to the Application, however a letter of support was received and filed from an adjacent neighbor; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The topography of the lot is such that no shed can be located on the property except in the place designated without locating the shed on a slope or the removal of substantial vegetation.

(c) The shed has been in existence for approximately 14 years during which time there have been no complaints neither formal nor informal.

(d) The shed is similar to other sheds in the neighborhood.

(e) The shed is not located over any water or sewer easements, well or septic systems.

(f) Construction of the shed has not created any water hazards or affected the course of water drainage or the ponding or collection of water.

(g) Relocation of the shed would require the removal of substantial vegetation, including a tree which would have an adverse effect on surrounding neighborhood.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variance.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 7.5 ft. side variance to allow an existing shed, at the above address, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 09, 2002.

  
Chairman

In the Matter of the Application of

**DENHOFF DEVELOPMENT CORP.**

MEMORANDUM OF  
DECISION GRANTING

AREA VARIANCES

#02-30.

**WHEREAS, DENHOFF DEVELOPMENT, % Mike Denhoff, 711 Third Avenue, 15<sup>th</sup> Floor, New York, N. Y. 10017, has made application before the Zoning Board of Appeals for a 14 ft. maximum building height, plus 22 parking space variance for construction of a retail complex at 124 Windsor Highway in a C zone; and**

**WHEREAS, a public hearing was held on the 10<sup>th</sup> day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and**

**WHEREAS, the Applicant appeared by Greg Shaw, P. E. on behalf of this Application; and**

**WHEREAS, there were no spectators appearing at the public hearing; and**

**WHEREAS, no one spoke in favor or opposition to the Application; and**

**WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and**

**WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:**

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located in a neighborhood of commercial properties on a busy State highway.

(b) This Applicant had previously sought and obtained the same variance requested herein, but, due to economic conditions, performed no construction pursuant to that variance and it has, therefore, lapsed.

- (c) The Zoning Local Law of the Town of New Windsor has changed since the original application and whereas the Application complied with the parking requirements as they existed at the time of the original Application, the Application no longer applies to those parking requirements.
- (d) The Applicant has located the maximum number of parking spaces that are appropriate for this development.
- (e) The topography of the property is such that a substantial amount of re-grading and construction of a retaining wall will be necessary in order to utilize the property.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted for the reasons listed above.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variances.

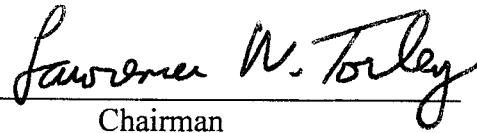
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 14 ft. maximum building height, plus 22 parking space variance for construction of a retail complex at 124 Windsor Highway in a C zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 09, 2002.

  
Chairman

FORMAL DECISIONS

1. HOUSE OF APACHE
2. DONOVAN
3. WESTAGE
4. SMITH
5. DENHOFF

MR. KANE: I move we take all of the formal decisions in one vote, please.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. KANE	AYE
MR. TORLEY	AYE

MR. TORLEY: Motion to adjourn?

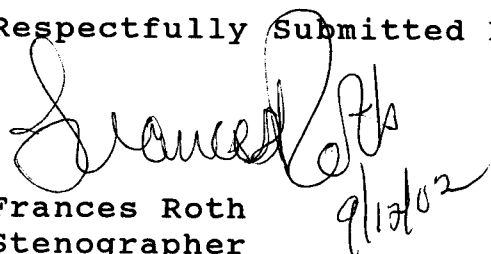
MR. KANE: So moved.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. KANE	AYE
MR. TORLEY	AYE

Respectfully Submitted By:

  
Frances Roth  
Stenographer